IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

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DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

MACON COUNTY INVESTMENTS, INC.; REACH ONE, TEACH ONE OF AMERICA, INC.,

Plaintiffs,

v.

DAVID WARREN, in his official capacity as the SHERIFF OF MACON COUNTY, ALABAMA,

Defendant.

Civil Action No.: CV- 3:06cv224-WKW

EXPEDITED HEARING REQUESTED

PLAINTIFFS' APPLICATION FOR PRELIMINARY INJUNCTION AND EXPEDITED HEARING

COME NOW the Plaintiffs, Macon County Investments, Inc. ("MCI") and Reach One, Teach One of America, pursuant to Rule 65 of the Federal Rules of Civil Procedure and hereby files this Application for a Preliminary Injunction and Expedited Hearing. The Plaintiffs incorporate by reference their Complaint for Declaratory Judgment and Injunctive Relief as if it is set forth fully herein. In further support of said Application, the Plaintiffs state the following:

FACTUAL BASIS

1. The Defendant David Warren, Sheriff of Macon County, Alabama ("Defendant Sheriff") promulgated "Rules and Regulations for the Licensing and Operation of Bingo Games in Macon County" in December of 2003.

2. Those Rules stated that **any** non-profit organization could make an application for a Class B Bingo license. *See* Original Rules, Section 1(j) and Section 4(a).

3. There has been one Class B Bingo license granted in Macon County under the Original Rules.

4. In June 2, 2004, the Defendant Sheriff executed the "First Amended and Restated Rules and Regulations for the Licensing and Operation of Bingo Games in Macon County, Alabama."

5. The First Amended Rules require a minimum of fifteen (15) non-profit organizations must submit an application and that the facility and location had to be at least $15 million in value. *See* First Amended Rules, Section 1(j) and Section 2.

6. On January 1, 2005, the Defendant Sheriff issued a "Second Amended and Restated Rules and Regulations for the Licensing and Operation of Bingo Games in Macon County, Alabama". The Second Amended Rules stated that at no time shall there be more than sixty (60) Class B Licenses in Macon County, Alabama. *See* Exh. 3, Second Amended Rules, Section 2.

7. There have been no Class B Bingo licenses granted in Macon County under the Amended Rules.

8. Since July 2005, MCI and Reach One, Teach One have had an application for a Class B Bingo license pending in the Office of the Macon County Sheriff.

10. Upon information and belief that the Defendant Sheriff would be granting the application, the Plaintiffs began constructing the facility and purchasing equipment for the operation of a Class B Bingo facility in Macon County.

11. As such, the Plaintiffs seek a preliminary injunction to instruct the Defendant Sheriff to grant the Plaintiffs application and issue a Class B Bingo license and to enjoin the Defendant Sheriff from continuing to operate under the Amended Rules.

REQUIREMENTS FOR PRELIMINARY INJUNCTION

12. The Defendant Sheriff has clearly denied Plaintiffs MCI and Reach One, Teach One equal protection under the laws. Further, there is no rational basis for the differential treatment of the Plaintiffs and the one Class B Bingo facility currently operating in Macon County. Given this evidence, success on the merits of the Plaintiffs' equal protection claim is likely.

11. The Plaintiffs have suffered and will continue to suffer irreparable harm if this injunction is not granted. Business reputation, goodwill and income are being diminished every day that the purchased equipment is not in use and the land remains undeveloped. Further, the public service goals of the MCI/Reach One, Teach One venture are being frustrated because no funds are being generated.

12. The granting of this injunction will pose no undue harm upon the Defendant Sheriff. The Defendant Sheriff will only be required to operate properly under the Fourteenth Amendment of the United States Constitution and Amendment 744 to Constitution of the State of Alabama.

13. The granting of this injunction will pose no adverse effect upon public interest.

PRAYER FOR RELIEF

The Plaintiffs request the following relief:

A. That this Court expedite this matter and set it for hearing on preliminary and final relief as soon as possible;

B. That this Court issue a preliminary injunction as soon as possible which directs the Defendant Sheriff to grant the Plaintiffs' application for a Class B Bingo facility and to issue a Class B Bingo license to the Plaintiffs;

C. That this Court issue a preliminary injunction as soon as possible which enjoins the Defendant Sheriff from operating under the Amended Rules;

D. That this Court issue a permanent injunction in accordance with the terms of the preliminary injunction;

E. Costs and expenses herein, including reasonable attorneys fees;

F. Any and all further relief to which the Plaintiffs may appear to be entitled.

Respectfully Submitted,

KENNETH L. THOMAS (THO 043)
RAMADANAH M. SALAAM (SAL 026)

OF COUNSEL:
THOMAS, MEANS, GILLIS & SEAY
3121 Zelda Court (36106)
P.O. Box 5058
Montgomery, Alabama 36103-5058
(334) 270-1033 (phone)
(334) 260-9396 (fax)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon the following by hand delivery and/or by placing a copy of same in the United States mail, postage prepaid and properly addressed this the 9th day of February, 2006:

Sheriff David Warren
Sheriff of Macon County Alabama
246 County Road 10
Tuskegee, Alabama 36083

OF COUNSEL